

House Bill 974 (AS PASSED HOUSE AND SENATE)

By: Representatives Maxwell of the 17th and Benton of the 31st

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 17 of Title 47 of the Official Code of Georgia Annotated, relating to the Peace Officers' Annuity and Benefit Fund, so as to provide that a member seeking creditable service for a period of absence from duty must have returned to service; to change the vesting period; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 17 of Title 47 of the Official Code of Georgia Annotated, relating to the Peace Officers' Annuity and Benefit Fund, is amended by revising Code Section 47-17-41, relating to retention of membership during absence from employment as a peace officer, credit for such period, and payments due from the member for such period, as follows:

"47-17-41.

The board may provide by rule and regulation for the retention of any legally qualified member who has temporarily ceased employment as a peace officer and for credit for such period, provided that an application for retention of membership is submitted not later than 90 days after such employment has ceased; and provided, further, that he or she shall pay to the fund the amounts required for such period. Such member may obtain one month of such credit for each month of active membership performed after the period of unemployment as a peace officer; provided, however, that not ~~Not~~ more than 12 months of absence from such employment shall be allowed under this Code section during a member's entire membership in the fund."

SECTION 2.

Said chapter is further amended by revising Code Section 47-17-80, relating to retirement benefit options, payment to surviving spouse, requirements, effect of reemployment, effect of changes in retirement benefits, and payment on death of member, as follows:

"47-17-80.

(a) At the time a member qualifies for retirement payments, such member must choose a payment option provided for in this Code section. A member shall become eligible to begin receiving benefits on the first day of the month following the month in which the member qualified for retirement and terminated active employment as a peace officer. A member shall present to the secretary-treasurer a completed application form for retirement benefits. The application shall contain such information as the board shall require. After approval by the board, the secretary-treasurer shall pay to such retired member a monthly sum based on the option chosen by the member. If a married member with a spouse then living is unable to choose an option provided for in this Code section and to complete an application form because of death, mental incompetency, or other providential cause, then Option Two shall become effective.

(b) Option One shall consist of a single life annuity payable in monthly payments for the life of the member only. The monthly payment under this option shall be an amount equal to \$17.50 per month for each full year of creditable service and in the event the member shall have additional service credit not totaling a full year, the further sum of one-twelfth of the amount paid per month for each additional year of service credit shall be paid for each month of additional service credit, provided that the member either has at least ten years of membership service, or 15 years for members who become members on or after July 1, 2010, and is at least 55 years of age or has at least 30 years of creditable service, regardless of age. Such monthly benefit payment shall be paid on each full year and additional full months of creditable service up to a maximum of 30 years of total service. No member shall be eligible for benefits under this option until the member's official duties as a peace officer have been terminated, except as otherwise provided in this chapter, and unless the member files an application for retirement benefits within 90 days from the date of the termination of the member's official duties as a peace officer, unless prevented therefrom for good cause. If such member shall qualify for retirement benefits in every respect except for completion of payment of monthly dues for the periods of time for which the member has received service credit, dues shall be deducted from the member's monthly benefit check until such dues have been paid in full. Any member who has at least ten years of membership service, or 15 years for members who become members on or after July 1, 2010, for which dues have been fully paid but who has not reached 55 years of age may cease paying monthly dues into the fund if the member's employment as a peace officer is terminated; and upon reaching 55 years of age the member may be eligible to receive retirement benefits under this option.

(c) Option Two shall consist of a 100 percent joint life annuity payable during the life of the member or the member's spouse. The amount of monthly payment to be paid under this

option shall be based on the date the member first becomes eligible to receive pension benefits (normal retirement date) and shall be computed so as to be actuarially equivalent to the monthly retirement payment which would have been paid to the member under Option One. Such actuarial equivalence shall be computed on the interest rate and mortality basis approved from time to time by the board, the age of the member, and, if applicable, the age of his or her spouse as of the date benefits are to commence or as of the date benefits would have commenced if the member had retired after first becoming eligible for full benefits, whichever is earlier.

(d) Option Three shall consist of a contingency life annuity with a 50 percent monthly payment to the surviving spouse. The amount of monthly payment to be paid under this option shall be based on the date the member first becomes eligible to receive pension benefits (normal retirement date) and shall be computed so as to be actuarially equivalent to the monthly retirement payment which would have been paid to the member under Option One. Such actuarial equivalence shall be computed on the interest rate and mortality basis approved from time to time by the board, the age of the member, and, if applicable, the age of his or her spouse as of the date benefits are to commence or as of the date benefits would have commenced if the member had retired after first becoming eligible for full benefits, whichever is earlier.

(e)(1) Under Option Two or Option Three, if the surviving spouse remarries, any benefits payable to the surviving spouse shall terminate as of the date of such remarriage.

(2) Under Option Two or Three, a retired member may revoke the election of any such option at any time after the entry of a final judgment of complete divorce from the retired member's spouse or the retired member may elect to continue under Option Two or Three for the benefit of the former spouse. Upon any such revocation, the retired member shall begin receiving the monthly retirement benefit which the retired member would have been entitled to receive under Option One. In the event any such retired member remarries after divorce from the former spouse and the retired member elected to revoke Option Two or Three as provided in this paragraph, the retired member may elect to begin receiving the applicable reduced monthly retirement benefit of equivalent actuarial value and reestablish on behalf of the new spouse the same option which was applicable to the former spouse. Such actuarial equivalence shall be based on the age of the retired member and the age of the retired member's new spouse at the time of such election and shall be computed on the Mortality Table GA51, with projection, using interest at 6 percent per annum, with a five-year age setback for females and monthly payment annuity functions. The option on behalf of the new spouse may not be exercised until one year after the date of remarriage or until a child of the remarried couple is born, whichever is earlier.

(e.1) When a retired member has elected Option Two or Option Three, then in the event the spouse predeceases the retired member, the monthly retirement benefit payable to the retired member after the death of the spouse shall be increased to the monthly retirement benefit which the retired member would have been entitled to receive under Option One. In the event any such retired member remarries or has remarried after the death of the former spouse, the retired member may elect to begin receiving the applicable reduced retirement benefit of equivalent actuarial value and reestablish on behalf of the new spouse the same option which was applicable to the deceased former spouse, but such option on behalf of the new spouse may not be reestablished until one year after the date of remarriage or until a child of the remarried couple is born, whichever is earlier. Actuarial equivalence under this subsection shall be determined in the same manner that it is determined under paragraph (2) of subsection (e) of this Code section. This subsection applies to retired members who retired at any time prior to July 1, 1990, as well as to those who retire on or after that date, but increases in monthly retirement benefits authorized by this subsection shall not be paid retroactively for any period of time prior to July 1, 1990, notwithstanding the fact that a spouse covered under Option Two or Option Three may have died prior to July 1, 1990.

(f) Nothing contained in this Code section shall affect the requirement that a member make payments into the fund for a minimum period of ten years, or 15 years for members who become members on or after July 1, 2010, nor shall it affect the requirement that credit for service after March 1, 1951, shall not be given unless the member has made the required payments to the fund for all such service. Any peace officer becoming a member of the fund between April 1, 1953, and March 31, 1965, inclusive, must remain an active member and, in addition to completing the required years of service, must remit the correct amount of dues to the fund for a period of three years from the date he or she becomes a member, irrespective of previous service credited for which dues are paid, before being eligible for any retirement benefits provided under this Code section. Any peace officer becoming a member of the fund for the first time on or after April 1, 1965, must remain an active member and, in addition to completing the required years of service, must remit the correct amount of dues to the fund for a period of five years from the date he or she becomes a member, irrespective of previous service credited for which dues are paid, before being eligible for any retirement benefits provided under this Code section.

(g)(1) Except as provided in paragraphs (2) and (3) of this subsection, any member who again becomes employed as a peace officer after having been placed on retirement under this Code section shall immediately notify the secretary-treasurer of such reemployment. Retirement benefits being paid to such member shall be terminated as of the date of such reemployment and shall remain terminated for the duration of such reemployment.

During such period of reemployment, said member shall pay regular monthly dues into this fund. Upon meeting the requirements provided by law, such member shall be entitled to all benefits provided for in Code Sections 47-17-81 and 47-17-82; but such member shall not be entitled to any increase in retirement benefits by virtue of service during the period of reemployment unless such reemployment is for a term of three years or more, in which instance such member may again apply for retirement as if he or she had not previously been retired; and he or she shall be entitled to such benefits as may be provided by law at that time, if he or she so chooses.

(2) The provisions of paragraph (1) of this subsection shall not apply to a retired member employed in any capacity for 1,040 hours or less in any calendar year.

(3) The provisions of paragraph (1) of this subsection shall not apply to a member otherwise qualified for a normal service retirement under this chapter with at least 30 years of creditable service and who has attained the age of 55. Any such member may continue or reenter employment as a peace officer and shall for all purposes be considered a retired member of this fund; provided, however, that the provisions of this paragraph shall not apply to any person who first or again becomes a member on or after July 1, 2009.

(h) The amounts provided for as retirement benefits in this Code section shall apply to those members who have retired prior to July 1, 1990, as well as to those members who retire on or after that date. The service of each member who retired prior to July 1, 1990, shall be recomputed; and, if it is determined that the amounts provided for in this Code section result in an increase in the retirement benefits being paid to such member, such benefits shall be increased to the proper amount and shall be paid to the member in the future, beginning July 1, 1990. If it is determined that an increase in retirement benefits will result for any such retired member, and such retired member shall not have completed payment of dues for all service credit previously allowed as of the date of such member's retirement, monthly dues shall be deducted from the member's monthly retirement benefits until such time as said dues shall have been paid for each month of service for which retirement credit has been received; provided, however, that no such member shall be allowed to change the option under which the member originally retired unless the member shall again become employed as a peace officer as provided in subsection (g) of this Code section and complies with all the provisions of subsection (g) of this Code section.

(i) In the event an active member of the fund dies before retirement and such member has accumulated at least ten years of membership service, or 15 years for members who become members on or after July 1, 2010, or would otherwise have been eligible to receive retirement benefits except for the member's not having terminated the member's official capacity as a peace officer, benefits shall be extended to the surviving spouse of such

173 member in the form of an annuity for the remaining life of such spouse determined and
174 paid to such surviving spouse under Option Two of this Code section to the same extent
175 as if such member had died while receiving retirement benefits under Option Two.
176 (j) Upon the death of any retired member, any unpaid monthly benefits shall be paid to the
177 named beneficiary, if any, or if there is no named beneficiary, then to the estate of the
178 retired member."

179 **SECTION 3.**

180 All laws and parts of laws in conflict with this Act are repealed.